THE HONOURABLE SRI JUSTICE A.GOPAL REDDY

W.P.No.10486/1995

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1. M/s. Modi Enterprises, represented by its Partner Suresh Bajaj, Hyderabad and another.
..Petitioner

V.

Municipal Corporation of Hyderabad, represented by its Commissioner, Hyderabad.
..Respondents.

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W.P.No.10486/1995

ORAL ORDER

The petitioner No.2 who is a sub-tenant of sole tenant petitioner No.1 obtained necessary Trade Licence under Section 521 of the Hyderabad Municipal Corporation Act to run a vegetarian restaurant on the fourth floor of the building bearing No.5-9-190/401-404, Chirag Ali Lane, Abids, Hyderabad filed the present writ petition questioning the action of the respondent in purporting to demolish and interfere with the premises and business of the petitioner in the terrace floor (4^{th} floor) without following due process of law as arbitrary and illegal, and for a consequential direction to the respondent not to interfere with the possession and enjoyment of the petitioner.

In the counter-affidavit filed by the respondent along with vacate stay petition in WVMP No.990/1995, it is stated that terrace floor was permitted for construction of AC plant room, machine room and life room only and the same should be used for the said purpose only. But the terrace floor was converted to regular fourth floor which is completely unauthorized and mere assessment of the property for levying tax cannot be taken advantage to perpetrate illegalities. Further it is stated in para 8 that when the illegal conversion was noticed by the officials of the Municipal Corporation, they visited the site on 20-5-1995 to serve notice, but nobody came forward to receive the notice stating that the proprietor is not available. Accordingly, the notice was pasted on the wall of the restaurant and commenced demolition of structures on 22-5-1995.

Learned counsel for the petitioners submits that in view of the demolition of structures, the second petitioner is not doing any business in the said premises and second petitioner is the sub-tenant of the first petitioner.

None appears on behalf of the respondent-Corporation. Therefore, it is not known the present state of affairs and which part of the premises was demolished.

Having regard to the facts and circumstances of the case, if the authorities have to demolish the unauthorized structures, if any, they have to issue notice to the concerned persons and proceed in accordance with law. In other words, the respondent shall not demolish the structures of the property of the petitioners, if constructed unauthorisedly, without following due process of law.

With the above direction, the writ petition is accordingly disposed of. No costs.

Kmr 21-3-2006